

Response
Applicants: Lars Björck et al.
Serial Number: 09/869,677

Attorney Docket: KCO1004US

REMARKS

The Examiner made a restriction requirement between three groups. Applicants respectfully traverse this restriction requirement. In response to this restriction requirement, Applicants elect Group I (claims 1 to 3 and 10 to 12, drawn to polypeptides and vaccines comprising said polypeptides).

The restriction requirement is improper because the Examiner has not shown that examining more of the subject matter of the claims would constitute a serious burden. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Thus for a restriction requirement to be valid, the Examiner must establish the following two criteria: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden (M.P.E.P. § 803).

The Examiner has not shown that the second requirement has been met. A search of the subject matter of Group I would necessarily include the subject matter of Group II (claims 4 to 8) because the claims of Group II recite polynucleotides that code for the polypeptides of Group I. A search of the subject matter of Group I would necessarily include the subject matter of Group III (claim 9) because the claim of Group III recites antibodies specific for the polypeptides of Group I. Accordingly, Applicants respectfully request reconsideration and modification of the restriction requirement.

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Respectfully submitted,

Date:

May 7, 2003

By

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